

रजिस्टर्ड नं० पी०/एल० एम० 14.



राजपत्र, हिमाचल प्रदेश

(प्रसाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 12 दिसम्बर, 1978/21 अग्रहायण, 1900

हिमाचल प्रदेश सरकार

LAW DEPARTMENT

NOTIFICATION

Simla-171002, the 6th December, 1978

No. LLR-D (6) 29/78.—The Himachal Pradesh Apartment (Regulation of Construction and Transfer) Bill, 1978 (Bill No. 27 of 1978)

after having received the assent of the President of India on the 28th November, 1978 is hereby published in the Rajpatra, Himachal Pradesh as Act No. 40 of 1978 for the information of general public.

JAI CHAND MALHOTRA,
Secretary.

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Act No. 40 of 1978.

**THE HIMACHAL PRADESH APARTMENT
(REGULATION OF CONSTRUCTION AND TRANSFER) ACT, 1978**

AN

ACT

to regulate the construction and transfer of apartments in Himachal Pradesh.

It is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Apartment (Regulation of Construction and Transfer) Act, 1978.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas and on such dates as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas.

2. This Act applies only to an apartment, in respect of which the promoter executes and submits a declaration before a competent authority in such manner as may be prescribed that he intends to submit the property wherein the apartment is or is to be located to the provisions of the Himachal Pradesh Apartment Ownership Act, 1978.

Application
of the Act.

3. In this Act, unless the context otherwise requires,—

Definitions

- (a) “declaration” means the instrument by which the property is submitted to the provisions of this Act;
- (b) “promoter” means a person who has already constructed or intends to construct apartments for the purpose of selling them to other persons and includes the Government; and
- (c) the expressions “apartment”, “building”, “competent authority” and “property” shall have the same meanings assigned to them respectively in the Himachal Pradesh Apartment Ownership Act, 1978.

4. Any promoter who intends to sell an apartment shall, on demand by an intending transferee,—

General li-
abilities of
promoters.

- (a) make full and true disclosure in writing of the nature of his interest in the land and building, if any, in which the apartments are or are to be constructed;
- (b) make full and true disclosure in writing of all encumbrances, if any, affecting such land or building;
- (c) disclose and give inspection of the plans and specifications of the entire building of which the proposed apartments form part and furnish copies thereof;
- (d) disclose in writing the nature of fixtures, fittings, and amenities which have been or are proposed to be provided;

- (e) disclose in writing the particulars as respects the materials which have been or proposed to be used in the construction of the building together with the details of all agreements entered into by him with the architects and contractors;
- (f) specify in writing the date by which possession of the apartment is to be handed over to such transferee;
- (g) supply in writing a list of all the apartments which have already been taken or agreed to be taken, together with their distinctive numbers, names and addresses of the transferees either actual or intended, the prices paid or charged by or upon them and any other particulars as may be prescribed;
- (h) make a full and true disclosure in writing of all out-goings including ground rent, if any, municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any, in relation to the land, building and the apartments;
- (i) make a full and true disclosure in writing of such other information and documents including true copies of such documents as may be prescribed.

Agreement to precede advance payment.

5. Notwithstanding anything contained in any other law, a promoter who intends to transfer any apartment shall, before accepting any sum from an intending transferee as advance payment or deposit, enter into a written agreement for sale with such transferee which shall be registered as a document compulsorily registerable under clause (b) of sub-section (1) of section 17 of the Registration Act, 1908:

16 of 1908

Provided that for the purposes of this section advance payment will not include the earnest money as prescribed under the Himachal Pradesh Housing Board Allotment, Management and Sale of Houses Plot Regulations, as amended from time to time.

No additions or alteration after disclosure of plans etc.

6. After the plans, specifications and the nature of the fixtures, fittings, and amenities are disclosed to the intending transferee under section 4, the promoter shall not make any alteration therein—

- (i) if it affects a single apartment, without the previous consent in writing of that transferee who intends to take the said apartment, and
- (ii) if it affects more than one apartment, without the previous consent in writing of all the transferees who intend to take those apartments.

Offences by promoter.

7. Any promoter who knowingly makes a false disclosure in respect of any of the matters referred to in clauses (a), (b), (g) or (h) of section 4 or contravenes the provisions of section 6, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Offences by companies.

8. (1) If the promoter committing an offence under this Act is a company, every person who at the time when the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment as provided in this Act if he proves

that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

9. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out all or any of the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly when it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rules or decides that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. No suit or other legal proceedings shall lie against the Government and no suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Indemnity

11. No Court shall take cognizance of any offence under this Act except on complaint made with the previous sanction of the competent authority.

Bar to jurisdiction.

12. If any provision of this Act or any section, sentence, clause, phrase or word, or application thereof in any circumstances is held invalid, the validity of the remainder of this Act and of the application of any such provision, section, sentence, clause, phrase or word, in any other circumstances shall not be affected thereby.

Severability

13. If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

निर्वाचन विभाग

अधिसूचना

शिमला-171002, 12 दिसम्बर, 1978

संख्या 7-19/72-इलैक-II.—जबकि, सोलन जिला की समस्त ग्राम सभाओं की ग्राम पंचायतों के निर्वाचन का आह्वान इस विभाग की अधिसूचना संख्या 7-19/72-इलैक-II, दिनांक, 22 अगस्त, 1978 द्वारा किया गया था और निर्वाचन की सम्पन्नता की तिथि अधिसूचना तथोपरि संख्या दिनांक, 26 सितम्बर, 1978 द्वारा 30 नवम्बर, 1978 घोषित की गई थी;

और जबकि, सोलन जिला की साई ग्राम सभा के प्रधान के पद के निर्वाचन की मतगणना के लिए उच्च न्यायालय हिमाचल प्रदेश द्वारा रोक लगा दी गई थी जिसके परिणाम स्वरूप उक्त ग्राम सभा के निर्वाचन निर्धारित तिथि के भीतर सम्पन्न नहीं हो सके, और जबकि हिमाचल प्रदेश उच्च न्यायालय ने कथित रोक को हटा दिया है;

अतएव, अधोहस्ताक्षरी द्वारा, सोलन जिला की साई ग्राम सभा के निर्वाचन की सम्पन्नता की तिथि 15 दिसम्बर, 1978 तक बढ़ाई जाती है ।

हरि शंकर दुबे,
सचिव (निर्वाचन) ।